

## CHAPTER 225

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**PROFESSIONS AND OCCUPATIONS**


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**SENATE BILL 09-169**

BY SENATOR(S) Tochtrop;  
also REPRESENTATIVE(S) Riesberg, Apuan, Ferrandino, Gerou, Labuda, Looper, Nikkel, Ryden, Schafer S., Todd, Vigil.

**AN ACT**

**CONCERNING THE CONTINUATION OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 12-39-121 (1), Colorado Revised Statutes, is amended to read:

**12-39-121. Repeal of article.** (1) This article is repealed, effective July 1, ~~2009~~ 2018.

**SECTION 2. Repeal.** 24-34-104 (40) (h), Colorado Revised Statutes, is repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (40) The following agencies, functions, or both, shall terminate on July 1, 2009:

(h) ~~The board of examiners of nursing home administrators, created pursuant to section 12-39-104, C.R.S.;~~

**SECTION 3.** 24-34-104 (49), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (49) The following agencies, functions, or both, shall terminate on July 1, 2018:

(f) THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS CREATED PURSUANT TO SECTION 12-39-104, C.R.S.;

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**SECTION 4.** The introductory portion to 12-39-104 (1) (a) and 12-39-104 (1) (a) (II), (1) (a) (III), and (5), Colorado Revised Statutes, are amended to read:

**12-39-104. Board of examiners of nursing home administrators - creation - subject to termination - repeal.** (1) (a) There is hereby created a board of examiners of nursing home administrators in the division of registrations in the department of regulatory agencies, which board shall be composed of ~~eight members as follows~~ THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

(II) (A) Two members shall be professionals from the long-term care industry, one of whom shall be a licensed health care professional. ~~and~~

(B) NOTWITHSTANDING SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), UPON THE EXPIRATION OF THE TERM OF OFFICE OF THE LONG-TERM CARE PROFESSIONAL MEMBER WHOSE TERM EXPIRES ON JULY 1, 2009, THE BOARD SHALL HAVE ONE MEMBER WHO IS A PROFESSIONAL FROM THE LONG-TERM CARE INDUSTRY.

(C) NOTWITHSTANDING SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), UPON THE EXPIRATION OF THE TERM OF OFFICE OF THE LONG-TERM CARE PROFESSIONAL MEMBER WHOSE TERM EXPIRES ON JULY 1, 2011, THE BOARD SHALL NOT HAVE ANY MEMBERS WHO ARE PROFESSIONALS FROM THE LONG-TERM CARE INDUSTRY.

(D) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2011.

(III) Three members shall be representative of the public at large; EXCEPT THAT UPON THE EXPIRATION OF THE TERM OF OFFICE OF THE ONE MEMBER OF THE BOARD REPRESENTING THE PUBLIC WHOSE TERM EXPIRES ON JULY 1, 2011, THE BOARD SHALL CONSIST OF TWO MEMBERS REPRESENTATIVE OF THE PUBLIC AT LARGE.

(5) The director of the division of registrations in the department of regulatory agencies may appoint, subject to section 13 of article XII of the state constitution, a program ~~administrator~~ DIRECTOR to the board. ~~Such~~ THE program ~~administrator~~ DIRECTOR shall not be a member of the board, but shall have such powers and shall perform such duties as are prescribed by law and the rules ~~and regulations~~ of the board. Additional staff may be appointed by the director of the division of registrations to adequately assist the board and the program ~~administrator~~ DIRECTOR in keeping records and in the performance of their duties. These employees, if any, shall be appointed and serve in accordance with section 13 of article XII of the state constitution.

**SECTION 5.** 12-39-104.5 (1) (c), Colorado Revised Statutes, is amended to read:

**12-39-104.5. Qualifications of board members.** (1) A nursing home administrator shall be qualified to be appointed to the board if such person:

(c) Has been actively engaged as a licensed nursing home administrator ~~in this state~~ for at least five years.

**SECTION 6.** 12-39-105 (1) (a) (I) (A), (1) (a) (III), (1) (a) (V), (1) (a) (VI), (1) (b), and (3) (a), Colorado Revised Statutes, are amended to read:

**12-39-105. Powers and duties of the board - rules.** (1) (a) The board has the following powers and duties:

(I) (A) ~~By no later than July 1, 1994, the board shall~~ To adopt rules defining standards of nursing home administration, including the responsibilities and duties of nursing home administrators, consistent with this article. ~~Such~~ THE STANDARDS ESTABLISHED IN THE rules ~~must~~ SHALL be met by individuals in order to receive and retain a license and shall be designed to ensure that nursing home administrators are qualified by education and training in the appropriate field to serve as nursing home administrators.

(III) To revoke, suspend, withhold, or refuse to renew any license previously issued by the board, to place ~~on probation~~ a licensee or temporary license holder ~~or~~ ON PROBATION, OR to issue a letter of admonition to a licensee in accordance with section 12-39-111 (3) in any case where the individual holding any such license is determined to have failed to conform to the ~~requirements of the standards provided in~~ DEVELOPED PURSUANT TO subparagraph (I) of this paragraph (a) or ~~the~~ TO HAVE COMMITTED AN ACT THAT CONSTITUTES grounds for discipline AS set forth in section 12-39-111;

(V) To conduct investigations, hold hearings, and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board and, in connection with any investigation following the filing of a signed complaint, AN INVESTIGATION INITIATED BY THE BOARD, or any hearing, to administer oaths and issue subpoenas compelling the attendance and testimony of witnesses and the production of books, papers, or records relevant to an investigation or hearing;

(VI) ~~To prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, C.R.S., a report accounting to the governor for the efficient discharge of all responsibilities assigned by law to the board.~~

(b) The board or an administrative law judge shall have the power to administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter coming before the board. The board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the board. The person providing documents shall prepare them from the original record and shall delete from the copy provided pursuant to the subpoena the name of the ~~patient~~ RESIDENT, but shall identify the ~~patient~~ RESIDENT by a numbered code, to be retained by the custodian of the records from which the copies were made. Upon certification of the custodian that the copies are true and complete except for the ~~patient's~~ RESIDENT'S name, they shall be deemed authentic, subject to the right to inspect the originals for the limited purpose of ascertaining the accuracy of the copies. No privilege of confidentiality shall exist with respect to ~~such~~ THE copies, and no liability shall lie against the board, the

custodian, or the custodian's authorized employee for furnishing or using ~~such~~ THE copies in accordance with this subsection (1).

(3) (a) ~~On or before July 1, 1994,~~ The board shall develop rules, ~~and regulations,~~ with input from long-term care facility provider associations, the department of public health and environment, the office of the state attorney general, and consumer representatives, concerning factors to be considered in determining performance ~~which~~ THAT fails to meet generally accepted standards for nursing home administrators and whether or not remedial or disciplinary actions are warranted. The board may create an advisory committee to assist the board in developing standards that describe the responsibilities and duties of nursing home administrators.

**SECTION 7.** 12-39-106 (1) (b), (1) (c), and (2), Colorado Revised Statutes, are amended to read:

**12-39-106. Qualifications for admission to examination.** (1) The board shall admit to examination for licensure as a nursing home administrator any applicant who pays a fee as determined by the board, who submits evidence of suitability prescribed by the board, who is twenty-one years of age or older, and who provides written documentation that the applicant meets one of the following requirements:

(b) The applicant has successfully completed a bachelor's degree in ~~business administration,~~ public health administration, health administration, or any degree or degrees deemed appropriate by the board; or

(c) The applicant has successfully completed an associate's degree or higher degree in a health care-related field and has a minimum of two years experience in ~~supervision or~~ administration in a nursing home or hospital. For the purposes of this section, a registered nurse who is a graduate of a three-year diploma program shall be considered to have met the associate degree requirement.

(2) ~~Failure~~ IF THE APPLICANT FAILS to provide ~~a written statement~~ EVIDENCE SATISFACTORY TO THE BOARD that the applicant meets the requirements of subsection (1) of this section, ~~will make~~ the applicant ineligible for admittance SHALL NOT BE ADMITTED to TAKE the licensing examination, and the applicant shall not be entitled to or be granted a license as a nursing home administrator.

**SECTION 8.** 12-39-107 (2), (4), and (6), Colorado Revised Statutes, are amended to read:

**12-39-107. Administrator-in-training.** (2) ~~The administrator-in-training shall submit bi-monthly progress reports on forms provided by the board.~~

(4) The board shall, ~~through rules and regulations~~ BY RULE, establish a monitoring mechanism that will provide oversight of the administrator-in-training program, INCLUDING A REQUIREMENT THAT AN ADMINISTRATOR-IN-TRAINING SUBMIT PERIODIC PROGRESS REPORTS TO THE BOARD.

(6) The board may waive any portion required by subsection (1) of this section if it finds that the applicant has prior experience or training sufficient to satisfy

requirements established by rule ~~or regulation~~ of the board.

**SECTION 9. Repeal.** 12-39-108 (2), Colorado Revised Statutes, is repealed as follows:

**12-39-108. Licenses.** (2) ~~Any person holding a valid license as a nursing home administrator prior to July 1, 1993, shall be licensed under the provisions of this article without further application by said person.~~

**SECTION 10.** 12-39-111 (1) (f), (1) (h), and (1) (i), Colorado Revised Statutes, are amended to read:

**12-39-111. Grounds for discipline.** (1) The board has the power to revoke, suspend, withhold, or refuse to renew any license, to place on probation a licensee or temporary license holder, or to issue a letter of admonition to a licensee in accordance with the procedures set forth in subsection (3) of this section, upon proof that such person:

(f) Has falsified or made incorrect entries or failed to make essential entries on ~~patient~~ RESIDENT records;

(h) Has a physical or mental disability ~~which~~ THAT renders the licensee unable to practice nursing home administration with reasonable skill and safety to the ~~patients~~ RESIDENTS and ~~which~~ THAT may endanger the health or safety of persons under ~~such~~ THE licensee's care;

(i) Has violated the confidentiality of information or knowledge as prescribed by law concerning any ~~patient~~ RESIDENT;

**SECTION 11.** 12-39-113 (1) and (2), Colorado Revised Statutes, are amended to read:

**12-39-113. Mental and physical examination of licensees.** (1) (a) If the board has reasonable grounds to believe that a licensee or temporary license holder is unable to practice with reasonable skill and safety to ~~patients~~ RESIDENTS because of a condition described in section 12-39-111 (1) (g) or (1) (h), it may require ~~such~~ THE person to submit to a mental or physical examination by a physician OR OTHER LICENSED HEALTH CARE PROFESSIONAL it designates. Upon the failure of ~~such~~ THE person to submit to ~~such~~ THE mental or physical examination, unless due to circumstances beyond ~~such~~ THE person's control, the board may suspend ~~such~~ THE person's license until ~~such time as such~~ THE person submits to the required examinations.

(b) Every licensee or temporary license holder by engaging in the practice of nursing home administration in this state or by applying for the renewal of a license or temporary license shall be deemed to have given consent to submit to a mental or physical examination when so directed in writing by the board. The direction to submit to such an examination shall contain the basis of the board's reasonable grounds to believe that the licensee is unable to practice with reasonable skill and safety to ~~patients~~ RESIDENTS because of a condition described in section 12-39-111 (1) (g) or (1) (h). The licensee shall be deemed to have waived all objections to the

admissibility of the examining physician's OR OTHER LICENSED HEALTH CARE PROFESSIONAL'S testimony or examination reports on the ground of privileged communication.

(2) Nothing in this section shall prevent the licensee from submitting testimony or examination reports of a physician OR OTHER LICENSED HEALTH CARE PROFESSIONAL designated by the licensee that pertains to a condition described in section 12-39-111 (1) (g) or (1) (h) ~~which~~ THAT may be considered by the board in conjunction with, but not in lieu of, testimony and examination reports of the physician OR OTHER LICENSED HEALTH CARE PROFESSIONAL designated by the board.

**SECTION 12. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 4, 2009